

FILED

United States District Court
Eastern District of North Carolina
Western DivisionCase No. 5:21-CT-3119

(To be filled out by Clerk's Office only)

APR 29 2021
PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY 
DEP CLKLonnie B. DavisInmate Number 14880-057

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

Mr. Bell, L-Unit Mgr-^{-against-} (Pro Se Prisoner)
Mr. Tuttle, BISM Contractor, Mr. Overstreet, BISM Contractor

U.S. of America (Admin. Tort: TRT-MXR-2020-

Jury Demand?

 Yes No

Officer), Warden D. Lee, Mr. Engle, AWP,

Mr. Jaeger, M-A unit Counselor, Mr. Neville, M-C unit Counselor

Mr. Boheiman, Laundry Supervisor, Mr. Besaw, L-A unit Counselor

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- 42 U.S.C. § 1983 (state, county, or municipal defendants)
- Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

II. PLAINTIFF INFORMATION

Lonnie Bernard Davis
Name

14880-057
Prisoner ID #

RCZ Butner 2
Place of Detention

P.O. Box 1500
Institutional Address

Butner N.C. 27509
City State Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- Pretrial detainee State Federal
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner

IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1: Mr. Bell
Name
L-Unit Manager
Current Job Title
FCI Butler 2
Current Work Address
Butler N.C. 27509
City State Zip Code

Capacity in which being sued: Individual Official Both

Defendant 2: Dr. Ley
Name
Warden of FCI Butler 2
Current Job Title
Butler Complex, FCI Butler 2, P.O. Box 1500
Current Work Address
Butler N.C. 27509
City State Zip Code

Capacity in which being sued: Individual Official Both

Defendant(s) Continued

Defendant 3: Mr. Twilley
Name
BISM Contractor of Prison Industry (ECI Butcher 2)
Current Job Title
2100 Harrod St.
Current Work Address
Brentwood N.C. 27604
City State Zip Code
Capacity in which being sued: Individual Official Both

Defendant 4: Mr. Overstreet
Name
BISM Contractor of Prison Industry (ECI Butcher 2)
Current Job Title
2100 Harrod St.
Current Work Address
Brentwood N.C. 27604
City State Zip Code
Capacity in which being sued: Individual Official Both

Defendant 5: Mr. Engle

Assistant Warden Of Program
Current Job Title

FCI Butler 2, P.O. Box 1500
Current Work Address

Butler
City

N.C.
State

27509
Zip Code

Capacity In Which Being Sued: Individual Official Both

Defendant 6: Mr. Jaeger

M-A Unit Counselor
Current Job Title

FCI Butler 2, P.O. Box 1500
Current Work Address

Butler
City

N.C.
State

27509
Zip Code

Capacity In Which Being Sued: Individual Official Both

Defendant 7: Mrs. Besaw

L-A Unit Counselor
Current Job Title

FCI Butler 2, P.O. Box 1500
Current Work Address

Butler
City

N.C.
State

27509
Zip Code

Capacity In Which Being Sued: Individual Official Both

Defendant(s) Information Cont...

Defendant 8: Mr. Neville

M-C Unit Counselor
Current Job TitleFCI Butner 2^o P.O. Box 1500
Current Work AddressButner
CityN.C.
State27509
Zip CodeCapacity In Which Being Sued: Individual Official Both

Defendant 9: Mr. Boheiman

Laundry Supervisor
Current ~~Job Title~~FCI Butner 2^o P.O. Box 1500
Current Work AddressButner
CityN.C.
State27509
Zip CodeCapacity In Which Being Sued: Individual Official Both

V. STATEMENT OF CLAIM

Place(s) of occurrence: FCI Butler 2 (Buntar Complex)

Date(s) of occurrence: On around 2020 to present time

State which of your federal constitutional or federal statutory rights have been violated:

Plaintiff asserts deliberate indifference of FICA with negligence. Plaintiff was deprived in the Bives/1983 with intentional conduct that resulted with either under harassment, retaliation and discrimination that violates 1st, 5th, 8th and 14th federal statutory rights. State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

On April 9, 2020 I alleged "Racial Profiling" through the grievance system concerning Mr. Tuttle and Mr. Overstreet both BISM Contractors of Prison Industry (FCI Butler 2). They had acted in a manner of becoming towards me (ex both had come to my work station while I was clearly viewed sewing at the machine and they're in an accusatory manner/have "Do you have any work" to which baffled me interpreted as get back to work). Furthermore, Mr. Tuttle on March 10, 2020 asserted to me and an inmate co-worker sitting next to me "Kissy Kissy" I felt that was inappropriate also. I went to them (contractors) and asked for their view on my work performance and both assured me they were satisfied and there were no complaints, but they continued with their disparate treatment towards me. They were coincidentally white males repetitively selecting white inmates for other positions that required training for possible promotional position(s). The report of their misconduct adversely effected me with other staff misconduct and mistreatment. FCI Butler 2 prison industry went on LAY IN due to the COVID-19 pandemic April 1, 2020 and work resumed again July 2020 in (PIE), but I was overlooked

Who did what to you?

What happened to you?

Far recall a. Prior to the COVID-19 pandemic Cpt. Wright, FCI Butterfield had implemented a No Provision /No Mask Wearing policy for inmates and on March 17, 2020 at work (PIG) an inmate sitting next to me had a bad cough (Cold/Flu Type Symptoms) and we were sitting at our sewing machines with a FAN blowing right in both our direction. The inmate had recently been isolated because of the above asserted symptoms. I went to Mr. Thomas, (PIG) Foreman and requested the issuance of a mask for the circumstances, but was informed the compound was still not providing masks to inmates. Later that same day during the lunch meal I spoke with Cpt. Wright and inquired about the No Issuance of Mask policy and told him about the incident/circumstance at work and his response was to utilize social distancing (Keep in mind these were modified conditions of confinement with No Mask Wearing / Issuance to inmates).

When did it happen to you?

On 4/13/20 there was a notice of the wearing of cloth face covering (How To Wear) and also a notice on the wearing of gloves (PPG). Unfortunately, this over a month since the imposition of modified conditions of confinement due to the COVID-19 pandemic which I assert in Administrator's TRT-MXL-2020-01660.

Where did it happen to you?

On May 7, 2020 in M-A unit Mr. Bohemian, Laundry Supervisor open my cell trap door to accept my dirty laundry, but instead of performing as he did with the other inmates by gathering their dirty laundry for exchange/washing he began stating to me "You can't talk You've Been Talking, I CAN'T see what you saying as I pointed my arm out the door toward the floor in front of my cell where I had placed my dirty laundry as the other inmates and asserted "I Know you can see my dirty clothes on floor right in front of my cell" Mr. Bohemian stated I can't see just like you can't talk now put your arm

FACTS: by (SIS) investigative services (ph Wright) that he recommended that remain assign to (PIE), but only a recommendation of housing in M-C unit (other prison industry work unit) and therefore not housed with the inmate who was placed as I was previously on administrative segregation on 9/22/20. I also attempted to inquire with Mr. Bell, C-Unit Major on 11/30/20 for a response to this informal BP8 whom verbally responded to me, "Not Open for Discussion and further stated Your Not Going Back to linear You Shouldn't Have Messed Up in M-Unit". I assert Mr. Bell and Counselor Besaw has conspired along with other M.S. Const. violations with their disparate treatment and violation of my equal protection rights that caused adverse consequences by being adversely effected for job program re-assignment for the reason they explain because "THEY SAID" I had to be re-assigned another job since I was not housed with the other prison industry workers. First off, I was not provided a reason for the unit re-assignment or separation of it unofficially. There are No Separation with the re-assignment of housing, but only a "THEY SAID", to which was perform by them with no incident report/write-up free while I was in compliance of October 17, 2019 FRP obligation where 50% were monthly deducted from my earnings. I attempted at Warder level BP9 to address these concerns but have not received a reply and nor did they reply at BP8 level ^(TEAM) informally ~~informally~~.

Conclusion

This complaint initiated in the prison industry (PIE) workplace and as a result of my use of the grievance system there were intentional conduct that violated either 1st, 5th, 8th and 14th amendments of my Federal Statutory Rights.

What was
your
injury?

back in and I copied. I wrote a grievance of staff misconduct "Racial Profiling" for the harassment and remarks. Mr. Boheiner further harassed me by returning my laundry sooty wet and again with an uniform pants removed as co-incidentally all my back pocket pants got ripped. On May 28, 2020 in M-A unit Counselor Neville remarked to the unit orderlies as he looked and nodded in my direction "What's That Over There What Does He Want"? As he implied those remarks towards me I overheard the orderlies reply "I don't Know what he want?" I waited for him to finish speaking with the other inmates before I approached him asking that he accept and process a BP8 but he refused and shut the unit laundry door in my face and walked away. Now, Counselor Neville's remarks towards me were profiled as demeaning as harassment, to which I believe because of my use of the grievance system. I submitted a complaint of this incident twice informally BP8 before I received a reply where I could proceed to the Unit Level BP9, to which I never receive a response concerning Counselor Neville (Racial Profiling And Harassment) towards me. Furthermore, Counselor Neville have continued with his harassment towards me on around March 31, 2021 during his late night he remarked to me at last meal "You Can Keep On Writing Me Up Because You Most Definitely Aint Be Smarter"; I did not comment. Lastly, after being re-housed from M-A to L-A unit in October 2020 I was assigned prison industry (PIE) unit around November 20, 2020 when Counselor Resaw, L-A/CB unit removed my name from participating in the (PIE) program with prison industry. I inquired to him informally on 11/20/20 for an explanation of why did he re-assign my job from (PIE) and he asserted "THEY SAID YOU CAN'T BE ASSIGNED TO (PIE) AND NOT BE HOUSED IN M-UNIT". I asked Counselor Resaw who is "THEY", because I was informed

VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint? Yes No

If no, explain why not:

Mr. Boheman, Laundry supervisor; Mr. Tuttle, BISM Contractor at prison industry (PCJ Butter 2) and Mr. Overstreet, BISM Contractor at prison industry have been completely exhausted (Admin Remedy # 1016345-A2 Tuttle/Overstreet) (Admin Remedy # 1029190 RL Boheman)

Is the grievance process completed?

Yes No

If no, explain why not:

Team responded to informally BP8 to Mr. Neville, but did not at Warden level BP9. There were no responses at either BP8 or BP9 levels after submittal concerning Mr. Bell, Mr. Besaw, Mr. Engle, Mr. D. Lee and Mr. Saenger.

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Plaintiff alleges that as a result of defendants conduct he has lost past, ^{earnings} future and other employment benefits and suffered embarrassment, humiliation and anguish. Plaintiff seeks punitive, declaratory and compensatory damages with immediate re-instatement to job assignment in (PCJ) prison industry with back pay from July 1, 2020 to present time. For defendants conduct was outrageous, malicious, intentional and carried out with reckless indifference to his civil rights. Plaintiff's program job re-assignment establishes improper conduct, improper practices of ignoring discrimination and failing to protect those who complained about discrimination. Furthermore, plaintiff seeks supervisory liability for the Warden D. Lee and Mr. Engle, AWP for Respondent Superior of their failure to intervene the custom of unlawful discrimination on the basis of race and there was retaliation against the inmate who complained about the discrimination. \$25,000.00 for the FTCA claim as Plaintiff seeks compensatory, declaratory and punitive with attorneys fees and cost all decided Trial Runs for Rv. & A. I 1983 Complaints.

VIII. PRISONER'S LITIGATION HISTORY

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal *in forma pauperis* in federal court if that prisoner has “on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. §1915(g).

Have you brought any other lawsuits in state or federal court while a prisoner? Yes No

If yes, how many? _____

Number each different lawsuit below and include the following:

- Name of case (including defendants' names), court, and docket number
 - Nature of claim made
 - How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)

IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint and provide prison identification number and prison address.

April 23, 2021

Dated


Plaintiff's Signature

Lonnie Bernard Davis

Printed Name

14880-057

Prison Identification #

FCC Butler 2, P.O.Box 1500, Butler, NC, 27509

Prison Address

City

State

Zip Code

- CERTIFICATE OF SERVICE -

I, Lonnie Davis petitioner, "pro Se," do hereby certify, pursuant to Title 28 U.S.C. §§ 1746, that on this 23rd day of April, 2021, I placed a true and correct copy of the foregoing Civil Complaint in the legal mail system for prisoners located herein at the FCC Butner 2, to be forward to the foregoing party(s) below:

⇒14880-057⇒

Clerk Usdo-Ednc
PO BOX 25670
Raleigh, NC 27611
United States

Date: April 23, 2021Signature 

⇒14880-057⇒

Lonnie B Davis
Institution Butner 2
2 OLD 75 HWY
Federal Correctional
Butner, NC 27509
United States

Dear Clerk:

Enclosed is the above referenced cause for filing please send me a stamped/mailed copy in the provided stamped addressed envelope

Respectfully Submitted,

